



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #535

Broadband Expansion Grants (Public Service Commission)

[LFB 2017-19 Budget Summary: Page 376, #2]

CURRENT LAW

The Public Service Commission (PSC) administers the broadband expansion grant program, created by 2013 Wisconsin Act 20. Profit and not-for-profit organizations, telecommunications utilities, and those organizations and utilities in partnership with municipalities and counties are eligible to apply for grants. Grants are to be used for projects that increase broadband access and capacity in underserved areas of the state. Priority is given to projects that include matching funds, that involve public-private partnerships, that affect areas with no broadband service providers, that are scalable, that promote economic development, or that affect a large geographic area or a large number of underserved individuals or communities.

Since 1996, the PSC has administered the universal service fund (USF) to ensure that all state residents receive essential telecommunications services. Over time, the definition of essential services has changed, and the Legislature has increased the number of programs financed through the fund. Currently, the USF supports 12 programs administered by the PSC, the Department of Public Instruction (DPI), the University of Wisconsin System (UW), and the Department of Administration (DOA), with 2016-17 appropriations totaling \$43.1 million. The programs and their 2016-17 funding include:

<u>Agency</u>	<u>Program</u>	<u>Funding</u>
PSC	Universal Telecommunications Service	\$5,940,000
	- Telecommunications Equipment Purchase	
	- Lifeline	
	- High-Rate Assistance Credit	
	- Telemedicine Equipment Grant	
	- Nonprofit Access Grant	
	- Two-Line Voice Carryforward	
DPI	Digital Learning Collaborative	1,000,000
DPI	Periodical and Reference Informational Databases and Newslines for the Blind	2,902,200
DPI	Supplemental Aid to Public Library Systems	15,013,100
DPI	Library Service Contracts	1,167,200
UW	Telecommunications Services	1,054,800
DOA	Educational Telecommunications Access	<u>15,984,200</u>
Total		\$43,061,500

GOVERNOR

Modify the broadband expansion grant program as follows.

Transfers to Broadband Expansion Grant Program. Require the transfer of the unencumbered balance from the following USF appropriations to the PSC's broadband expansion grant program appropriation on June 30 of each year: (a) universal telecommunications service (PSC); (b) digital learning collaborative (DPI); (c) periodical and reference information databases and Newslines for the Blind (DPI); (d) aid to public library systems (DPI); (e) library service contracts (DPI); (f) telecommunications services (UW); and (g) telecommunications access for educational agencies (DOA), as modified by the bill, except this transfer would occur on June 30 of each odd-numbered year. Modify the PSC's USF appropriation to authorize funds to be expended for making broadband expansion grants and for performing the duties related to the administration of the broadband expansion grant program. These provisions would take effect on the effective date of the bill. [The USF appropriations are funded through PSC assessments on companies providing retail intrastate voice telecommunications services.]

Funding Level for Broadband Expansion Grant Appropriation. Modify the PSC appropriation for broadband expansion grants to accept the transfers, as noted above, and transfer \$6,000,000 SEG to the appropriation from the universal service fund in 2017-18. Also in 2017-18, transfer \$5,000,000 FED from DOA's federal E-rate appropriation to the broadband expansion grant appropriation. Delete the current law provisions limiting any year's expenditures to the amounts in the schedule and limiting the amount of grants in any fiscal year to \$1,500,000. Within the appropriation, transfer budget authority of \$1,500,000 SEG from 2018-19 to 2017-18, and further increase budget authority by \$11,000,000 in 2017-18 to reflect the transfers noted above. As a result of these changes, \$14,000,000 SEG would be available for broadband expansion grants in 2017-18, as opposed to \$1,500,000 under current law. The appropriation schedule in the bill reports \$0 for 2018-19. However, because the appropriation is a continuing

appropriation, any unspent amounts from 2017-18 could be used to fund grants in 2018-19. Further, any unencumbered balances in the various USF appropriations as of June 30, 2018, would be transferred to the broadband expansion grant appropriation and be available for expenditure in 2018-19; the administration estimates these transfers at perhaps \$1.5 million to \$2 million. Under the bill, ongoing funding for broadband expansion grants would come from year-end unencumbered funds, if any, of the various USF appropriations. Authorize the PSC's USF appropriation to be used to make broadband expansion grants and to perform duties related to the administration of the broadband expansion grant program.

Changes to Broadband Expansion Grant Program. In 2017-18, authorize the PSC to allocate an amount that it determines for making broadband expansion grants to telecommunications utilities receiving A-CAM or phase II support, both as defined below, and to evaluate applications and award such grants on an expedited basis, without regard to the current law criteria for evaluating applications and rewarding grants. Define A-CAM support to mean support for the deployment of voice and broadband-capable networks from the federal Connect America Fund that is made to telecommunications utilities regulated as rate-of-return carriers by the Federal Communications Commission (FCC) and that is based on the FCC's Alternative Connect America Cost Model. Define phase II support to mean the FCC second phase of support for rural broadband deployment from the federal Connect America Fund that is made to telecommunications utilities regulated as price cap carriers by the FCC. Modify the current law provision authorizing contributions to the USF to be used to make broadband expansion grants to also authorize contributions to be used to carry out the Commission's duties related to the grant program, effective July 1, 2018.

Funding for State Broadband Office. Change the funding source for the contracted services in the state broadband office by reducing the PSC's utility regulation appropriation by \$225,000 PR annually. Changes to the PSC's USF and broadband expansion grant appropriations, described above, would permit the contract expenditures to be funded through those appropriations, although neither appropriation is specifically increased to reflect the contract expenditures. Other administrative functions of the state broadband office would continue to be funded from the PSC's utility regulation appropriation.

Prohibit DNR and DOT from Charging Certain Fees. Prohibit the Department of Natural Resources from requiring any appraisal or fee to secure an easement, if the Department has granted an easement for the construction of broadband infrastructure in underserved areas, as designated under current law provisions related to PSC broadband expansion grants. Prohibit the Department of Transportation from charging any fee for the initial issuance of any permit necessary to construct broadband infrastructure along, across, or within the limits of a highway, if the Department has consented to the construction of broadband infrastructure in underserved areas, as designated under current law provisions related to PSC broadband expansion grants. These provisions would take effect on the effective date of the bill.

DISCUSSION POINTS

1. The Joint Committee on Finance has held executive sessions on Senate Bill 49 (SB 49)

and Assembly Bill 123 (AB 123) and recommended both bills for passage. Those bills are similar to the provisions affecting broadband expansion grants included in the Governor's biennial budget bill (AB 64/SB 30). At the Committee's executive sessions, analyses of SB 49 and AB 123 prepared by this office noted the similarities and differences between the two proposals and AB 64/SB 30. This paper gives the Committee the opportunity to consider several issues that were not included in SB 49 and AB 123. Provisions in the budget bill that are similar or identical to provisions in the two bills should be deleted from the biennial budget bill. When the Legislative Reference Bureau incorporates the 2017 acts into the statutes for publication, minor or technical differences between two acts can cause the acts to not merge cleanly. Alternative 1 would delete provisions from the biennial budget bill that are similar or identical to provisions in SB 49 and AB 123. "Similar" is intended to denote provisions that have different effective dates.

2. A current law provision authorizes the proceeds from the USF to be used for certain specified purposes, including making broadband expansion grants. SB 49 and AB 123 would modify this provision to also authorize USF proceeds to be used to "administer the (grant) program," while AB 64/SB 30 would allow proceeds to be used to "carry out the commission's duties" under the grant program. The AB 64/SB 30 provision is broader in scope and is intended to allow functions such as broadband mapping to be funded from the PSC's USF appropriation, rather than its utility regulation appropriation. Broadband mapping permits PSC staff to identify underserved areas that might be eligible for broadband expansion grants, but mapping may not be perceived literally to be grant administration. Related to this provision, supporting budget documents submitted by DOA reflect a \$225,000 annual reduction to the supplies and services line of the PSC's PR utility regulation appropriation. However, DOA did not make an offsetting entry increasing the PSC's USF SEG appropriation.

3. Alternative 2.a. would substitute the broader administrative language from AB 64/SB 30 in the USF authorization, and Alternative 2.b. would increase the PSC's USF appropriation by \$225,000 SEG annually and designate that funding for supplies and services.

4. SB 49 and AB 123 would make several changes to the eligibility criteria used by the PSC to determine which applicants should receive broadband expansion grants. The primary effect of these changes would be to ensure that grants are directed toward rural areas. AB 64/SB 30 would not make changes to the eligibility criteria, but would authorize the PSC to allocate a portion of the 2017-18 grant funding, without regard to the eligibility criteria, for projects of telecommunications providers that have received funding under the federal CAF II and A-CAM programs. Under the federal USF, the Federal Communications Commission (FCC) has made funding available to broadband providers to extend broadband service to rural areas through two programs. The Connect America Fund (CAF), now on its second round of funding, assists providers subject to "price cap" regulation (generally larger providers), and the Alternative Connect America Cost Model (A-CAM) assists providers subject to "rate-of-return" regulation (generally smaller providers). Current federal requirements do not require carriers receiving funding to extend broadband service to all eligible locations. By targeting carriers who are in the process of extending broadband service using federal funds, the AB 64/SB 30 provision could improve the economics of extending service to high-cost locations that might not otherwise receive service. Alternative 3 would adopt the AB 64/SB 30 provision regarding funds for CAF II and A-CAM recipients.

5. Both SB 49/AB 123 and AB 64/SB 30 would transfer unencumbered funds on a one-time basis and on an ongoing basis from the USF to the broadband expansion grant appropriation. The Governor proposed a similar mechanism in Act 55, but the Legislature instead transferred \$6 million on a one-time basis and set the broadband appropriation at a level where funding would be available for two biennia. The Committee and Legislature also sought to require the PSC to submit a report to the Committee on the causes of the unencumbered balance in the USF and changes that could be made to procedures for setting the budgets for the various USF programs and for establishing contribution rates for providers that would reduce the unencumbered balance in the future. The PSC would have been prohibited from imposing any revisions to contribution rates without the report being approved by the Committee. Through item veto, the Governor removed this requirement from the budget.

6. The Committee's proposal was in response to LFB Paper #545, which noted that the Legislative Audit Bureau has raised the issue of unencumbered USF balances in several past audits. The LAB audits the USF every other year and is currently conducting an audit with a release date expected later this year. Paper #545 noted that the USF had a 2013-14 closing balance of \$5.6 million. The balance has increased to \$8.5 million in 2014-15 and \$14.6 million in 2015-16. However, the 2015-16 amount includes \$4.5 million of the \$6.0 million that Act 55 transferred for broadband expansion grants through 2018-19, so the fund's adjusted balance equals approximately \$10.1 million.

7. Paper #545 noted that the USF will likely continue to have a fund balance, according to PSC staff, because the procedure for determining program budgets and setting contribution levels are not well coordinated with regard to when each process occurs and because the PSC is unable to "true-up" funds at the end of each year. If the Committee wants to address the fund balance issue raised in Paper #545 and in the LAB audits, each state agency receiving USF revenues could be required to report to the PSC within 10 working days of the close of the fiscal year an estimate of their unexpended and unencumbered USF funding. Further, the PSC could be required to adjust the contribution levels for the following year by these amounts. Currently, the USF statute directs the PSC to calculate USF contribution rates based on USF appropriation levels and the gross operating revenues of telecommunication providers. The proposal would require the PSC to true-up the contribution calculations in the same manner that the PSC true-up its remainder assessment under current law. Such a reconciliation would eliminate the potential for assessments that exceed the funding needs of the USF programs. This modification is reflected as Alternative 4.

8. DOA has indicated that the broadband grant funding mechanism proposed in AB 64/SB 30 would result in ongoing broadband grant funding of \$1.5 to \$2.0 million per year, beginning in 2018-19. Based on a comparison of USF appropriation levels and actual expenditures over the last several years, this appears to be a reasonable estimate. However, the suggested modification (Alternative 4), as well as the consolidation of DOA's four TEACH appropriations under SB 49 and AB 123, would reduce the expected transfers under the Governor's proposal. This could be addressed by establishing a minimum funding level for the broadband expansion grant program based on DOA's expectation of transferred amounts. The PSC would be directed to ensure that the broadband expansion grant program would receive a minimum level of funding based on estimated transfers and contributions assessed against telecommunications providers. For example,

the minimum funding level could be set at either \$1,500,000 (Alternative 4.a.) or \$2,000,000 (Alternative 4.b.) to reflect the estimated transfer indicated by DOA.

ALTERNATIVES

The Committee may select more than one alternative.

1. Delete provisions related to transfers of unencumbered balances from the various USF appropriations, one-time transfers from the USF and DOA's federal E-rate program, and prohibiting the Departments of Natural Resources and Transportation from charging certain fees. Reduce SEG funding by \$11,000,000 and SEG-REV by \$5,000,000. Unless the Committee adopts Alternative 3, also delete the provision in the bill that authorizes the PSC to allocate a portion of the 2017-18 grant funding, without regard to the eligibility criteria, for projects of telecommunications providers that have received funding under the federal CAF II and A-CAM programs.

ALT1	Change to	
	Base	Bill
SEG	\$0	-\$11,000,000
SEG-REV	0	- 5,000,000

2. Retain the provision in the bill that authorizes USF revenues to be used to carry out the Commission's duties related to the broadband expansion grant program, except:

a. Modify the provision so that it amends a similar provision in either SB 49 or AB 123 that authorizes USF revenues to be used for administering the broadband expansion grant program (this provision would amend whichever version becomes enrolled);

b. Increase the PSC's USF appropriation by \$225,000 annually for the purchase of supplies and services to offset the reduction that the bill makes to the utility regulation appropriation.

ALT2.b.	Change to	
	Base	Bill
SEG	\$450,000	\$450,000

3. Retain the provision in the bill that authorizes the PSC to allocate a portion of the 2017-18 grant funding, without regard to the eligibility criteria, for projects of telecommunications providers that have received funding under the federal CAF II and A-CAM programs.

4. Modify current law provisions regarding the calculation of contributions to the USF to:
 (a) require each state agency receiving USF revenues to report to the PSC within 10 working days of the close of the fiscal year an estimate of the amount of unexpended and unencumbered funds in

the agency's USF appropriation, except require DOA to provide the estimate in each odd-numbered year; and (b) require the PSC to reduce the amount of revenues to be raised through USF contributions for broadband expansion grants in the subsequent year by the amount of the estimated unexpended and unencumbered funds. In calculating contribution levels for telecommunications providers, require the PSC to ensure that a minimum annual funding level is available for making broadband expansion grants both through transfers from the various USF appropriations and from current year contributions. Create an appropriation to expend the contributions received under this mechanism for broadband expansion grants. Set the minimum annual funding level for broadband expansion grants at:

- a. \$1,500,000; or
- b. \$2,000,000.

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